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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/525,400	03/15/2000	David Del Val	777.040US2	9200

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EXAMINER

KOSTAK, VICTOR R

ART UNIT PAPER NUMBER

2611

DATE MAILED: 11/19/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/525,400

Applicant(s)

DEL VAL ET AL.

Examiner

Victor R. Kostak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-41 (actually 21-60) is/are pending in the application.
- 4a) Of the above claim(s) 2-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-41 is/are rejected. (3160)
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 and 12. 6) ☐ Other: \_\_\_\_\_

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1. Applicant's election with traverse of group II in Paper No. 14 is acknowledged. Reasons for traversal are not given. The restriction accordingly stands and is therefore made FINAL.

2. Applicant also states in his response that claims 2-41 are pending. Actually, claim 1 has also been canceled in the preamendment filed on 1/16/02 in paper #8.

3. Also regarding the claims, the numbering is not in compliance with rule 126. Since original claims 1-20 have been canceled, the new claims should have been renumbered starting with claim 21 and ending with claim 60 (rather than ranging from claims 2-41). (The examiner addressed the claims according to the improper numbering in the initial restriction requirement to enable the applicant to respond easier, rather than first requiring correction of that numbering.)

4. Claims 15 and 30 are objected to because of the following informalities: the claims must end with a period. Appropriate correction is required.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12, 13, 16-18, 27, 28 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kremen et al.

The client/server network of Kremen (noting particularly Figs. 1, 4 and 5) enables reception by the server multiple requests from the client using different network protocols (e.g. col. 5 lines 21-23), and accordingly responding to those requests using the same respective protocols (e.g. col. 5 lines 32-37; col. 11 lines 57-61; col. 12 lines 27-30), thereby meeting claims 12 and 27.

As for claims 18 and 33, the system monitors reception from the server which responses correspond to the requests sent by the client, wherein each of the responses employ the same protocol as those used by the respective requests (e.g. col. 5 lines 25-31; col. 11 lines 57-59; col. 12 lines 27-43).

As for claims 13 and 28, the requests naturally get responses, such being the purpose of making requests.

Regarding claims 16, 25, 31 and 40, the data communicated is multimedia data (e.g. col. 6 lines 48-51).

More specifically regarding claims 17, 26, 32 and 41, the multimedia data can be video, audio or text data (noting again col. 6 lines 48-51).

6. Claims 12-14, 18-20, 27-29 and 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Goertzel et al.

Goertzel (noting particularly Figs. 3A – 3C) associates client stations with server stations and enables reception by the server multiple requests from the client using different network protocols, and accordingly responding to those requests using the same respective protocols (e.g. (e.g. col. 7 lines 35-42)), thereby meeting claims 12 and 27.

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As for claims 18 and 33, the system monitors reception from the server which responses correspond to the requests sent by the client, wherein each of the responses employ the same protocol as those used by the respective requests (noting again, e.g. col. 7 lines 35-42; and col. 9 line 45 – col. 10 line 11).

As for claims 13 and 28, the server naturally responds to the client's requests, thereby completing the two-way communication process.

As for claims 14, 21, 22, 29, 36 and 37, concurrent simultaneous requests are disclosed (noting parallel connections between the client and server in Figs. 3A – 3C; multitasking described in col. 1 lines 12-15).

Regarding claims 19 and 34, Goertzel applies a highest priority protocol selection (col. 7 lines 42-50), which corresponds to the recited “most advantageous” protocol. (In a system making available plural protocols, inherently a decision must be made, and the selection would not be arbitrary but would lean towards the most appropriate protocol among those available).

Similarly regarding claims 20 and 35, the highest priority protocols of Goertzel covers the “most advantageous” label of protocols.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 23, 30, 24, 29 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kremen et al. or Goertzel et al.

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Regarding claims 15, 24, 30 and 39, it would have been obvious to make available as many protocols as possible, for the clear purpose of expanding the communication database for requested data as expansive and data display as in presentable form as can be done, thereby accommodating any client with the data intended to be sought. Both Kremen (e.g. col. 2 line 61 – col. 3 line 46) and Goertzel (e.g. col. 1 line 59 – col. 2 line 12) list various protocols, but not exhaustively, thereby suggesting in general terms the desirability to use as many as can be carried.

As for claims 23 and 38, it would have been obvious to consider the bound time frame to correspond to the time allowed for accessing the server (subsequent to logging on).

Alternatively, it would have been obvious to one of ordinary skill in the art to make data available upon request only in specific time periods, in instances where the server dictates time periods of data availability (such as in product promotions), or when the server is in a slow or hindered operating mode (as a result of network congestion, for instance).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is informed that the additional references in some manner all disclose making available multiple protocols to be used in communicating between a client and server.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday thru Friday from 6:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile, can be reached at 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703 308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 308-6306 (For either formal or informal communications intended for entry. For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Victor R. Kostak  
Primary Examiner  
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